

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LEVI B. SCHMALE, JR.,

Petitioner,

V.

MARILYN BROOKS, et al.,

Respondents.

Civil Action No. 06-16 Erie

# MEMORANDUM ORDER

This petition for writ of habeas corpus was received by the Clerk of Court on January 25, 2006 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on April 25, 2007, recommended that the petition for writ of habeas corpus be dismissed and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail at SCI Albion, where he is incarcerated, and on Respondents. Petitioner has filed no objections to Magistrate Judge Baxter's Report and Recommendation. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 16<sup>th</sup> day of May 2007:

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is DISMISSED and that a certificate of appealability is DENIED.

The Report and Recommendation of Magistrate Judge Baxter, filed on April 25, 2007 [7], is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge